

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

1. The petitioner is a patient in a long-term health care facility with Medicaid coverage.
2. The patient's gross income consists of \$1,052 per month in a federal annuity and \$836 in Social Security benefits. The net income (after taxes) received by the petitioner from the federal pension is \$899.91 and the net amount of the Social Security check is \$782, due the deduction of her Medicare premium.
3. Prior to December of 2001, the Department had calculated the portion of income which the petitioner had to pay towards her nursing home expenses by adding the net amount of the pension, \$899.91 to the gross amount of the Social

Security check, \$836. From this amount, PATH allowed the petitioner to keep \$47.66 for personal needs, \$54.00 to pay her Medicare premium and \$89.09 to pay for other health insurance. Her patient share was established at \$1,584.11 per month.

4. In December of 2001, a review of the calculations occurred during which PATH concluded that it had been in error in using the petitioner's net pension payment. The petitioner was notified (through her son who handles her affairs) that the use of the gross amount for her pension would result in an increase of her patient share amount to \$1,697.25 per month.

5. The petitioner's son appealed this decision for her on the basis that PATH is incorrect to use his mother's gross amount to calculate her patient share. He argues that she does not see the gross amount because it arrives with federal income tax amounts already taken out. She is, therefore, unable to pay the gross amount over to the nursing facility. He stated that she does have a tax liability each year but did not provide copies of her income tax statements.

ORDER

The decision of the Department is affirmed.

REASONS

Under regulations adopted by PATH, Medicaid eligibility is determined by counting all income, including the "gross payment" of any unearned income such as a pension program. Medicaid Manual (MM) 242(1). There is no deduction in the regulations for amounts paid out for income taxes. The Department is thus correct when it calculates her patient share using the gross payments from the federal pension and must be upheld in this position by the Board.

Although the petitioner's son states that she has an income tax liability, it is hard to understand why. The petitioner's income does amount to over \$22,000 per year. However, she has huge deductible medical expenses based on her nursing home patient share and her insurance payments that almost equal her income. The petitioner should have no income tax liability in this situation. The petitioner's son either needs to contact the entity paying the pension to get it to stop making income tax payments on her behalf or to recover the payments by filing a tax return. He is encouraged to contact a tax accountant to discuss this situation.

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